

1 SUPREME COURT OF ARIZONA
2 FIDUCIARY BOARD

3 IN THE MATTER OF FIDUCIARY)
4 LICENSE:)

No. FID-NFC-17-0015

5 KRISTA CLINE,)
6 License Number 20681.)

FINAL ORDER

7 On February 15, 2018, the Fiduciary Board ("Board") filed a Notice of Formal Statement
8 of Charges and Right to Hearing (Exhibit A) in the above-captioned matter with the Honorable
9 William J. O'Neil ("Judge O'Neil"). Krista Cline ("Cline") failed to file an Answer and did not
10 request a hearing. The Board finds Cline in default and the Factual Allegations of Misconduct
11 contained in Exhibit A are deemed admitted, pursuant to ACJA § 7-201(H)(11). The Board
12 holds the authority to proceed with this action pursuant to ACJA § 7-201(D)(5)(c).

13 JURISDICTION

14 Pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201 and § 7-202, the
15 Board served Notice of Formal Statement of Charges and Right to Hearing to Cline on July 16,
16 2018. The Board has jurisdiction over this matter as Cline's license was granted on June 1, 2012.

17 Pursuant to ACJA § 7-201(H) and ACJA § 7-202(H), the matter was investigated, and
18 Cline was provided an opportunity to respond to the complaint, participate in the investigation
19 of the complaint, file an Answer to the Notice of Formal Statement of Charges, and request a
20 hearing.
21

22 PROCEDURAL HISTORY

23 1. On May 31, 2017, the Certification and Licensing Division ("Division") received a
24 complaint involving Cline.
25

1 2. On June 14, 2017, the Division sent Cline a copy of the complaint and notice of the ACJA
2 § 7-201(H)(3)(c) requirement Cline submit a written response to the complaint within thirty (30)
3 days. Division records confirm delivery of the mailing on June 17, 2017.

4 3. Cline provided a timely written response to the complaint as required by ACJA § 7-
5 201(H)(3)(c).

6 4. On December 20, 2017, pursuant to Arizona Code of Judicial Administration ("ACJA")
7 § 7-201(H)(5)(a)(3), Probable Cause Evaluator Mike Baumstark entered a finding probable
8 cause exists in complaint number 17-0015.

9 4. On February 14, 2018, the Fiduciary Board ("Board") accepted the finding of the
10 Probable Cause Evaluator and entered a finding grounds for formal disciplinary action exists as
11 to Allegations 1, 2, 3 and 4 pursuant to ACJA § 7-201(H)(6)(a) and voted to revoke Cline's
12 license.

13 5. On July 16, 2018, Cline was served with a Notice of Formal Statement of Charges and
14 Right to Hearing in complaint number 17-0015. Cline failed to file an Answer and did not request
15 a hearing.

16 FINDINGS OF FACTS

17 Cline having failed to file an Answer, the Board finds Cline in default and the Factual
18 Allegations of Misconduct contained in Exhibit A are deemed admitted, pursuant to ACJA § 7-
19 201(H)(11). On September 6, 2018, the Board adopted the Factual Allegations of Misconduct
20 in Exhibit A as the Findings of Fact in the matter.

22 CONCLUSIONS OF LAW

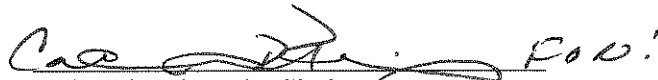
23 The Board adopts the Formal Charges contained in Exhibit A as the Conclusion of Law
24 in this matter.

FINAL DECISION and ORDER

Having adopted the above-referenced findings and conclusions, the Board orders the following disciplinary sanction in complaint number 17-0015:

- a) Revoke Krista Cline's license, pursuant to ACJA § 7-201(H)(24)(a)(6)(i);
- b) Issue a cease and desist order enjoining Cline from representing herself to the public as a licensed fiduciary, pursuant to ACJA § 7-201(H)(24)(a)(6)(g);

DATED this 14th day of September, 2018.


Deborah Primock, Chair
Fiduciary Board

1 A copy of the foregoing hand delivered and/or mailed this 14th day of September 2018, to:

2 Krista Cline
3 160 Quail Ridge Lane
4 Sedona, AZ 86336

5 David Withey, Assistant Counsel
6 Administrative Office of the Court
7 1501 West Washington
8 Phoenix, Arizona 85007

9 Eryn McCarthy
10 Section Chief Counsel
11 Agency Counsel Section
12 Office of the Attorney General
13 2005 North Central Avenue
14 Phoenix, Arizona 85004-2926

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By:

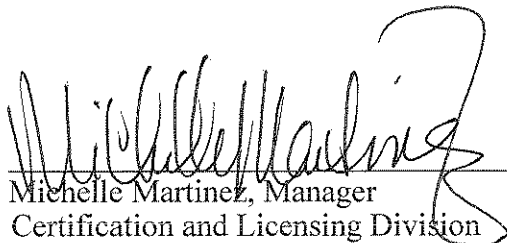

Michelle Martinez, Manager
Certification and Licensing Division

EXHIBIT A

FILED

FEB 15 2018

DISCIPLINARY CLERK OF THE
SUPREME COURT OF ARIZONA

SUPREME COURT OF ARIZONA
FIDUCIARY BOARD

IN THE MATTER OF FIDUCIARY
LICENSE:

No. FID-NFC-17-0015

NOTICE OF FORMAL
STATEMENT of
CHARGES and RIGHT to
HEARING

KRISTA CLINE,
License Number 20681.

On December 20, 2017, pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(5)(a)(3), Probable Cause Evaluator, Mike Baumstark, entered a finding probable cause exists as to Allegations 1, 2, 3 and 4 in complaint number 17-0015. The particular sections of laws, court rules, ACJA, and orders relevant to the alleged acts of misconduct are ACJA §§ 7-201(E)(2)(c)(2)(b)(ii) and (xiv), 7-201(F)(1), 7-201(H)(6)(a), (c), (h), (k)(6), (7) and (8) and (j), 7-202(F)(1), 7-202(J)(1)(a), (2)(a), (b)(1) and (d), (3), (5) and (7), and A.R.S. §§ 13-1801(A)(12) and (13), -1802(A)(1) and (2), 46-454 and -456, as detailed in the attached Investigation Summary, Probable Cause Analysis and Determination Report and Order of the Board (Exhibit A) and incorporated herein.

On January 11, 2018, the Fiduciary Board ("Board") accepted the finding of the Probable Cause Evaluator and entered a finding grounds for formal disciplinary action exists as to Allegations 1, 2, 3 and 4 pursuant to ACJA § 7-201(H)(6)(a) and voted to revoke Krista Cline's ("Cline") license.

JURISDICTION

Pursuant to ACJA § 7-201(H)(10), the Board serves this Notice of Formal Statement of Charges and provides notice to Cline that she has a right to request a hearing on the proposed disciplinary action against license number 20681. The Board has jurisdiction over this matter

1 as Cline's license was granted on June 1, 2012. Cline has renewed her license through the
2 current licensure period.

3 The complaint underlying the Board's decision to revoke Cline's license was received
4 during the period of Cline's active licensure and she was provided an opportunity to respond to
5 the complaint and participate in the investigation of the complaint. The Board holds the
6 authority to proceed with this action pursuant to ACJA § 7-201(H).

7 **ANSWER OF CERTIFICATE HOLDER**

8 Pursuant to ACJA § 7-201(H)(11), Cline shall file an Answer to this Notice of Formal
9 Statement of Charges within fifteen (15) days of receipt of this Notice. The Answer shall
10 comply with Rule 8 of the Arizona Rules of Civil Procedure. Any defenses not raised in the
11 Answer are waived. If Cline fails to file an Answer within the time provided, she is in default
12 and the factual allegations in the formal charges are deemed admitted and the Board may
13 determine the matter against Cline. Cline's Answer shall be filed with the Arizona Supreme
14 Court Office of the Presiding Disciplinary Judge, 1501 West Washington, Suite 104, Phoenix,
15 Arizona 85007.
16

17 **NOTICE OF RIGHT TO HEARING**

18 Pursuant to ACJA § 7-201(H)(12), Cline may request a hearing within fifteen (15) days
19 of receipt of the Notice of Formal Charges and Right to Hearing. The Request for Hearing
20 must comply with ACJA § 7-201(H)(12), and shall be filed with the Arizona Supreme Court
21 Office of the Presiding Disciplinary Judge, 1501 West Washington, Suite 104, Phoenix,
22 Arizona 85007. If Cline does not timely file a Request for Hearing, she will not have a right
23 to a hearing.
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1. On May 31, 2017, the Certification and Licensing Division ("Division") received a complaint involving Cline.
2. On June 14, 2017, the Division sent Cline a copy of the complaint and notice of the ACJA § 7-201(H)(3)(c) requirement she submit a written response to the complaint within thirty (30) days. Division records confirm delivery of the mailing on June 17, 2017.
3. Cline provided a timely written response to the complaint as required by ACJA § 7-201(H)(3)(c).

FACTUAL ALLEGATIONS OF MISCONDUCT

The Board, having knowledge sufficient to form a belief as to the truth of this information, hereby alleges and finds as follows:

1. On May 31, 2017, the Division received a complaint from Catherine Mitchell ("Mitchell") on behalf of Adult Protective Services ("APS").
2. Mitchell alleged that, Cline had declined to respond to a formal written request from APS for records pursuant to an investigation concerning possible financial exploitation of a vulnerable adult under Cline's care. During a September 19, 2017 telephonic interview with Division staff, Cline admitted that she did not provide the documents to APS.
3. In her July 14, 2017 written response to Complaint No. 17-0015, Cline made representations concerning her handling of finances for the ward identified in the complaint. Information obtained from the ward, the successor on the ward's trust and Yavapai County Sheriff's Office ("YCSO") detective, Todd Swaim, demonstrates Cline's statements are false.

1 4. In the September 19, 2017 interview with staff, Cline denied threatening Mitchell with
2 trespassing for leaving a business card outside Cline's home. Staff is in possession of a copy
3 of a May 4, 2017 letter to Mitchell from Cline which contains the threat.

4 5. In addition to notifying the Division, APS filed a complaint with the YCSO. The
5 YCSO investigation revealed Cline's involvement in multiple fraudulent financial transactions
6 involving two wards in her care, as detailed in Exhibit A. Pursuant to these findings, Cline was
7 arrested on September 14, 2017 and charged with three counts of fraud and one count of theft.
8

9 6. On September 20, 2017, the Board voted to an Emergency Summary Suspension of
10 Cline's license which was subsequently upheld at the expedited hearing on September 28,
11 2017.

12 7. As part of Division's investigation, on September 20, 2017, staff hand-delivered to
13 Cline a written request for documents. The request stated a two-week deadline consistent with
14 Cline's oral representations regarding the amount of time she would need to provide the
15 documents. Aside from a list of clients, Cline failed to provide the documents requested by the
16 Division.

17 **FORMAL CHARGES**

18 1. Cline violated ACJA §§ 7-201(F)(1) and 7-201(H)(6)(a), 7-202(F)(1) and (J) and
19 A.R.S. § 46-454, by refusing to provide records to APS requested during an investigation into
20 allegations of financial exploitation of a ward in her care.

21 2. Cline violated ACJA §§ 7-201(F)(1), 7-201(H)(6)(a), (h) and (k)(6), (7) and (8), 7-
22 202(F)(1) and (J)(1)(a), (2)(a), (b)(1) and (d), (3), (5) and (7), A.R.S. §§ 13-1801(A)(12) and
23 (13), -1802(A)(1) and (2) and 46-456 by mismanaging and/or misappropriating client(s) funds
24 and acting in an unprofessional manner.
25

1 3. Cline violated ACJA §§ 7-201(F)(1), 7-201(H)(6)(a) and (c), 7-202(F)(1) and (J)(1)(a)
2 and (7) by failing to cooperate with a Division investigation.

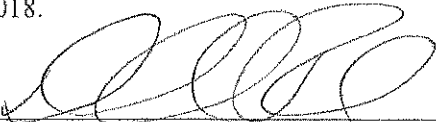
3 4. Cline violated ACJA §§ 7-201(E)(2)(c)(2)(b)(ii) and (xiv), 7-201(F)(1) and 7-
4 201(H)(6)(j), 7-202(F)(1) and (J) by making false statements to the Division.

5 **PROPOSED DISCIPLINARY SANCTIONS**

6 The Board, based on the foregoing factual allegations of misconduct, is seeking to:

- 7 a) Revoke Krista Cline's license, pursuant to ACJA § 7-201(H)(24)(a)(6)(i);
8
9 b) Issue a cease and desist order enjoining Cline from representing herself to the
10 public as a licensed fiduciary, pursuant to ACJA § 7-201(H)(24)(a)(6)(g);

11 DATED this 14 day of February, 2018.

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13 Deborah Primock, Chair
14 Fiduciary Board
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1 Original of the foregoing filed this 5th day of February, 2018 with:

2 The Honorable William O'Neil
3 Presiding Disciplinary Judge
4 1501 West Washington, Suite 104
Phoenix, Arizona 85007

5 A copy of the foregoing to be served to:

6 Krista Cline
7 160 Quail Ridge Lane
8 Sedona, AZ 86336

9 A copy of the foregoing hand delivered and/or mailed this 5th day of February, 2018 to:

10 David Withey, Legal Counsel
11 Administrative Office of the Court
12 1501 West Washington
Phoenix, Arizona 85007

13 Eryn McCarthy
14 Agency Counsel Section
15 Office of the Attorney General
16 15 South 15th Avenue
Phoenix, Arizona 85007

17
18 By:

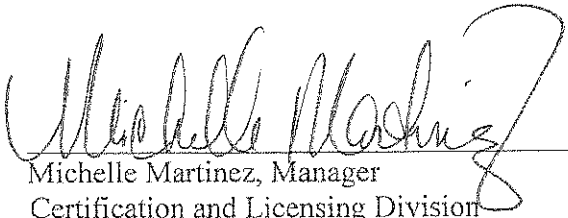

19 Michelle Martinez, Manager
20 Certification and Licensing Division
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EXHIBIT A

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY and PROBABLE CAUSE ANALYSIS
and DETERMINATION REPORT**

CERTIFICATE HOLDER/LICENSEE INFORMATION	Certificate/License Holder:	Krista Cline
	Certificate/License Number:	20681
	Type of Certificate/License	Individual
	Business Name:	Essential Fiduciary
	Certificate/License Number:	Services, LLC
	Type of Certificate/License:	N/A
COMPLAINANT	Name:	Catherine Mitchell/Adult Protective Services
INVESTIGATION INFORMATION	Complaint Number:	17-0015
	Investigators:	Meredith Vivona
		Pasquale Fontana

Complaint Received: May 31, 2017
Complaint Forwarded to the Certificate Holder: June 14, 2017
Certificate Holder/Licensee Received Complaint: June 17, 2017
Response From Certificate Holder: July 14, 2017
Period of Active Certification/Licensure: June 1, 2012
Status of Certification/License: Summary Suspension
 September 20, 2017
Availability of Certificate Holder/Licensee: Unavailable
Availability of Complainant: Available
Report Date: December 8, 2017

ALLEGATIONS:

1. Krista Cline refused to provide records to Adult Protective Services requested during an investigation into allegations of financial exploitation of her client.

ADDITIONAL ALLEGATIONS:

2. Krista Cline mismanaged and/or misappropriated client[s] funds and was unprofessional.
3. Krista Cline failed to cooperate with this Division's investigation.
4. Krista Cline made at least one false statement to this Division.

List of sources for obtaining information: (Investigative, records, outside resources, etc.):

- Written complaint and documentation submitted by Complainant, Catherine Mitchell ("Mitchell"), on behalf of Adult Protective Services ("APS");
- Written response and documentation submitted by certificate holder, Krista Cline ("Cline");
- Review of applicable Certification and Licensing Division ("Division") records;
- Review of applicable sections of Arizona Revised Statutes ("A.R.S."), Arizona Codes of Judicial Administration ("ACJA") § 7-201 and § 7-202, and Arizona Supreme Court Rules;
- Interviews of Mitchell;
- Interview of Cline;
- Interview of Detective Todd Swaim ("Det. Swaim") Yavapai County Sheriff Office ("YCSO");
- Interview of Michael Thomsen ("Thomsen"); and
- Interviews of Vonda Schraner ("Schraner").

PERSONS INTERVIEWED:

1. Catherine Mitchell
2. Krista Cline
3. Detective Todd Swaim
4. Michael Thomsen
5. Vonda Schraner

SUMMARY OF INVESTIGATION:

Staff reviewed all available documents produced including but not limited to, bank statements (provided by APS and Schraner), a draft 2016 accounting (provided by Thomsen), the Thomsen Trust (provided by Schraner) and YCSO report (provided by Det. Swaim). Staff also interviewed the persons mentioned above and reviewed the applicable laws and rules.

SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:

On May 31, 2017, Mitchell, on behalf of APS, submitted a complaint to this Division alleging that Cline failed to respond to APS's request for records. APS initiated an investigation into Cline in March 2016 after receiving a complaint from Thomsen. Thomsen, a vulnerable adult under Cline's care, asserted that Cline had inappropriately placed \$16,500.00 into his account that did not belong to him. When he inquired of his bank, he learned of other alleged improper money transfers Cline made to or from his account. In addition, Thomsen alleged Cline made purchases with his funds, but that he never received the purchased items. Cline was the sole person with control of funds in the "Michael Thomsen Special Needs Trust" ("Thomsen Trust").

Mitchell said she communicated with Cline by telephone and requested information from Cline on April 4, 2017. Cline agreed to cooperate with APS's investigation, but said she was unable to answer Mitchell's questions because Cline's accountant had her material. Having received no responsive information, on April 21, 2017, APS issued a written request for information to Cline seeking images of written checks, power of attorney documentation, trust documentation, and a complete accounting for the Thomsen Trust. The letter cited A.R.S. §46-454E as statutory authority to obtain Cline's records and gave Cline ten (10) calendar days to respond. When Cline failed to timely respond, Mitchell visited Cline's home, which was also her office. Mitchell left her business card at the door of the residence.

On May 4, 2017, Cline wrote Mitchell regarding "Your trespass at my home." Cline stated that she was "livid and appalled that you would take such an action as to go to my home uninvited...As far as I am concerned you criminally trespassed against an officer of the court." Thereafter, Mitchell received a second letter from Cline, dated May 2, 2017, declining to produce the documents requested. Cline explained that, "the terms of the Special Needs Trust Agreement do not allow the Trustee to provide Trust information to any party beyond the Beneficiary or the Beneficiary's legal representative...I am unsure how APS has the authority to request this information in this specific situation."

APS independently obtained some relevant bank records and its financial analysis found Cline transferred \$66,060.39 from Thomsen to "other non-client accounts."

In addition to notifying this Division, APS filed a complaint with the YCSO. That complaint was investigated by Det. Todd Swaim and resulted in Cline's arrest on September 14, 2017. She was charged with three counts of fraud and one count of theft.

On September 19, 2017, Division staff interviewed Det. Swaim and obtained a copy of his report. Det. Swaim reported that during his investigation he confirmed that \$16,500.00 was inappropriately placed in Thomsen's bank account. Det. Swaim learned that the funds had come from a deceased person's account, Christine Morris ("Morris"), with whom Cline also had a fiduciary relationship. Det. Swaim's report documented that Cline told him she noticed this "error" and "had it reversed." But, the bank records show that the \$16,500 at issue remains in Thomsen's account.

Det. Swaim also reviewed Morris's bank account records and determined that Cline inappropriately transferred as much as \$76,000.00 from Morris's account, approximately \$34,000.00 after Morris's death. He also reported that between January 2016 and March 2017, Cline transferred \$69,782.00 from the Thomsen Trust to:

- \$28,609.00 to Essential Fiduciary Services LLC
- \$16,160.00 to a Chase "Liquid" card used by Thomsen
- \$1,875.00 to Essential Designs LLC
- \$6,500.00 to a Morgan or Krista Cline joint account
- \$7,438.00 to a Chase credit card in the name of Cline
- \$3,700.00 to a Chase credit card in an unknown name

Det. Swaim identified Cline as having an interest in Essential Fiduciary Services LLC and Essential Designs LLC. He also identified the inappropriate transfers of funds in the amount of approximately \$30,620.00 after subtracting the Chase Liquid card transfers and Cline's reasonable fees.

Det. Swaim's investigation uncovered that while Cline was the fiduciary for Morris, from September 2016 through May of 2017, Cline transferred the following funds:

- \$45,388.00 to Essential Fiduciary Services pre-death and \$11,854 post death for a total \$57,242.00
- \$6,939.00 to Chase credit card pre-death belonging to Cline and \$5,735.00 post death for a total of \$12,674.00
- \$16,500.00 to Thomsen Trust

Prior to Cline's arrest, Det. Swain asked her to provide him with a copy of her invoices from April 2016 through April 2017. She said she would. But when Det. Swain met with Cline to review the invoices, Cline refused to produce them and said that she never intended to produce the invoices. During Det. Swaim's interview with Cline, she denied transferring any funds to herself or for Cline's benefit except to the Essential Fiduciary Services LLC account. Det. Swaim arrested Cline at the conclusion of this interview.

Det. Swaim's report concluded in part that, "After reviewing the account statements from the accounts Krista Cline transferred the funds which belong to her, I was able to clearly see that the funds used or expenditures from these accounts did not benefit either victim in this case. The funds clearly show that Krista Cline and her husband Morgan Cline used the funds for their own personal use. Total theft from the two clients above and beyond Krista's Fiduciary fees was approx. \$107,038.00." Cline has not refuted or explained the transfers.

On September 19, 2017, staff telephonically interviewed Cline. She denied threatening Mitchell with trespassing. She admitted that she did not provide records to APS. Cline claimed that "half" of the records APS requested were items she did not have. Regarding APS's request for bank records, Cline stated the information was confidential and that APS had not provided legal authority supporting its request.

Regarding this Division's request for records, Cline said she would cooperate and that she still possessed all the records and could produce them within about a "week or two." But, Cline has not produced financial documents to this Division. Regarding her interactions with Det. Swaim, Cline acknowledged that the monetary figures Det. Swaim reported regarding transfers appeared accurate and she did not dispute the amounts. She asserted that if given an opportunity, she would explain all the transfers. To date, Cline's explanation has not been forthcoming.

Cline sent this Division a written response dated July 14, 2017, wherein she denied the allegations of Mitchell's complaint. Regarding the \$16,500.00 transfer into Thomsen's account, Cline stated, "As is required, I was the one who identified the mistake, corrected

it appropriately and immediately, and further identified the mistake and correction in the accounting to Mr. Thomsen as beneficiary. Further I transferred from my business account the amount in interest to the Trust that the Trust would have earned on that amount. Full documentation of this corrective action was provided directly to Mr. Thomsen..."

On September 20, 2017, the Fiduciary Board convened to consider staff's preliminary investigation. Cline appeared and agreed to answer the Board's questions. Cline was unable to explain the transactions at issue, or the findings of Det. Swaim's report. The Board found grounds for summary suspension of Cline's fiduciary license pursuant to ACJA § 7-201(H)(9)(d)(1); for acts of misconduct involving ACJA §§ 7-201(F)(1), (H)(6)(a), (k)(2), (6), (7), (8) and (12), 7-202(F)(1), (J)(1)(a), (2)(a) and (b)(1), A.R.S. §§ 13-1801(A)(12) and (13) and 13-1802(A)(1) and (2).

On September 20, 2017, immediately following the Board meeting, staff hand-delivered a written request for documents to Cline. The letter gave Cline two weeks to produce the records, consistent with her oral representations regarding the amount of time she would need to comply. Cline stated that she was able and willing to timely provide the requested documentation. Although Cline emailed staff a list of clients, she failed to provide any of the other documents sought.

On September 26, 2017, staff interviewed Schraner telephonically. Schraner reported that although she was appointed as successor of the Thomsen Trust on May 23, 2017, to date, Cline had not provided documents or information. Schraner instead obtained documents from APS, Thomsen and Chase Bank. Because the \$16,500.00 that Thomsen identified as not belonging to him (and that Det. Swaim determined originated from Morris's account) remained in his account as of May 23, 2017, Schraner moved it into a separate account where it is currently held. Schraner reports that Cline also failed to purchase insurance for the home that Thomsen lives in. Schraner provided staff relevant documents including: Thomsen Trust, Liquid Card Statements (Feb. 2016 - Jan. 2017) and bank statements from the Thomsen Trust (Jan. 2016 - Jan. 2017).

On September 28, 2017, an emergency hearing was held regarding the Board's decision to summarily suspend Cline's fiduciary license. Cline did not appear. Presiding Disciplinary Judge William O'Neil found that the Board had good cause to issue summary suspension and upheld the same.

On October 3, 2017, staff sent a follow up letter to Cline noting that the Division had not received responsive documents from her and again requesting her cooperation. She did not produce documents and sought a stay of this investigation based on the advice of counsel.

On October 13, 2017, staff interviewed Thomsen and Schraner in person. Although Thomsen is a vulnerable adult, he was able to recall information regarding his interactions with Cline. He reported that Cline would not check on him, she would not let him see bank statements, she would not share information about his trust account, she would not contact him promptly despite his calls to her, and she would not provide him her invoices. Thomsen reported that he found a draft accounting for 2016 in a barrel on his property. He states he

never was able to obtain any answers or explanation from Cline about funds in his account. Thomsen disputes Cline's statement to this Division that she corrected the \$16,500.00 transfer, that she provided him interest and that she promptly informed him of all the relevant events.

ANALYSIS OF ALLEGATIONS:

Allegation 1: Krista Cline refused to provide records to Adult Protective Services requested during an investigation into allegations of financial exploitation of her client.

ACJA § 7-201(F)(1) and § 7-202(F)(1) require all fiduciaries to comply with the Code of Conduct contained in § 7-202(J).

§7-201(H)(6)(a):

6. Grounds for Discipline. A certificate holder is subject to disciplinary action if the board finds the certificate holder has engaged in one or more of the following:

(a) Failed to perform any duty to discharge any obligation in the course of the certificate holder's responsibilities as required by law, court rules, this section or the applicable section of the ACJA;

A.R.S. § 46-454. Duty to report abuse, neglect and exploitation of vulnerable adults; duty to make medical records available; violation; classification

E. A person having custody or control of medical or financial records of a vulnerable adult for whom a report is required or authorized under this section shall make such records, or a copy of such records, available to a peace officer or adult protective services worker investigating the vulnerable adult's neglect, exploitation or abuse on written request for the records signed by the peace officer or adult protective services worker. Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding or investigation resulting from a report required or authorized under this section.

Upon receiving a complaint from Thomsen regarding his concerns that Cline may be financially exploiting him, APS initiated an investigation into the matter. As part of its investigation, APS requested pertinent documentation from Cline and she agreed to provide those documents, as requested.

Subsequently, on April 21, 2017, APS issued a specific and formal written request for documents from Cline. The letter cited applicable legal authority and gave Cline a deadline by which to respond. Cline declined to produce any responsive documents to APS stating, "the terms of the Special Needs Trust Agreement do not allow the Trustee to provide Trust information to any party beyond the Beneficiary or the Beneficiary's legal representative...I am unsure how APS has the authority to request this information in this specific situation."

As a licensed professional fiduciary, Cline is compelled to discharge her duties and obligations as required by law, court rules and any applicable sections of the ACJA. §7-201(H)(6)(a) establishes grounds for disciplinary action if the license holder fails to discharge mandated duties and obligations.

(a) Failed to perform any duty to discharge any obligation in the course of the certificate holder's responsibilities as required by law, court rules, this section or the applicable section of the ACJA;

Cline is obligated to made records in her possession and control to APS, pursuant to A.R.S. § 46-454E:

E. A person having custody or control of medical or financial records of a vulnerable adult for whom a report is required or authorized under this section shall make such records, or a copy of such records, available to a peace officer or adult protective services worker investigating the vulnerable adult's neglect, exploitation or abuse on written request for the records signed by the peace officer or adult protective services worker.

On September 19, 2017, during a telephonic interview with Division staff, Cline admitted that she did not provide APS with records sought.

Allegation 1 is substantiated.

Allegation 2: Krista Cline mismanaged and/or misappropriated client[s] funds and was unprofessional.

ACJA § 7-201(F)(1) and § 7-202(F)(1) require all fiduciaries to comply with the Code of Conduct contained in § 7-202(J).

§7-201(H)(6)(a), (h) and (k)(6), (7) and (8):

6. Grounds for Discipline. A certificate holder is subject to disciplinary action if the board finds the certificate holder has engaged in one or more of the following:

a. Failed to perform any duty to discharge any obligation in the course of the certificate holder's responsibilities as required by law, court rules, this section or the applicable section of the ACJA;

h. Exhibited incompetence in the performance of duties;

k. Engaged in unprofessional conduct, including:

(6) Failed to practice competently by use of unsafe or unacceptable practices;

(7) Failed during the performance of any responsibility or duty of the profession or occupation to use the degree of care, skill and proficiency commonly exercised by the ordinary skillful, careful and prudent professional certificate holder engaged in similar practice under the same or similar conditions regardless of any level of harm or injury to the client or customer;

(8) Failed to practice competently by reason of any cause on a single occasion or on multiple occasions by performing unsafe or unacceptable client or customer care or failed to conform to the essential standards of acceptable and prevailing practice;

§7- 202(J)(1)(a):

1. Duty to the Court.

a. The fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law, federal law, administrative rules, court orders, court rules, administrative orders, and the Arizona Code of Judicial Administration.

§7- 202(J)(2)(a), (b)(1) and (d):

2. Relationship with the Ward or Protected Person. The fiduciary shall exhibit the highest degree of trust, loyalty, and fidelity in relation to the ward, protected person, or estate.

a. The fiduciary shall manage and protect the personal and monetary interests of the ward or protected person and foster growth, independence and self reliance to the maximum degree.

b. The fiduciary shall:

(1) Avoid self-dealing, conflict of interest impropriety, or the appearance of a conflict of interest or impropriety. Self-dealing, a conflict of interest, or impropriety arises where the fiduciary has some personal or agency interest other individuals may perceive as self-serving or adverse to the position or best interest of the ward, protected person, or decedent. A conflict of interest may also arise if the fiduciary has dual or multiple relationships with a ward that conflict with each other or has a conflict between or among the best interests of two or more wards.

d. The fiduciary shall, whenever possible, provide all pertinent information to the ward or protected person unless the fiduciary is reasonably certain substantial harm will result from providing this information. Pursuant to A.R.S. § 14-5651, the fiduciary shall, upon appointment as a guardian or conservator, provide "written information to the ward or protected person and all persons entitled to notice pursuant to § 14-5309 or 14-5405 that the fiduciary is licensed by the

supreme court and subject to regulation by the supreme court." This notice shall be in the form as prescribed by the supreme court, as specified in subsection F(4).

§7-202(J)(3):

3. Decision Making. The fiduciary shall exercise extreme care and diligence when making decisions on behalf of a ward or protected person. The fiduciary shall make all decisions in a manner that promotes the civil rights and liberties of the ward or protected person and maximizes independence and self-reliance.

§7-202(J)(5):

5. Conservatorship. The fiduciary acting as conservator for the estate shall provide competent management of the property and income of the estate. The fiduciary shall exercise the highest level of fiduciary responsibility, intelligence, prudence, and diligence in the discharge of all duties. A fiduciary shall avoid any self-interest in the discharge of this duty.

§7-202(J)(7):

7. A licensed fiduciary who is acting as a trustee or agent under a power of attorney shall abide by this code of conduct, regardless of whether that person is acting pursuant to court appointment.

A.R.S. § 13-1801(A)(12) and (13).

Definitions

A. In this chapter, unless the context otherwise requires:

12. "Property" means anything of value, tangible or intangible, including trade secrets.

13. "Property of another" means property in which any person other than the defendant has an interest on which the defendant is not privileged to infringe, including property in which the defendant also has an interest, notwithstanding the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the defendant is not deemed property of another person who has only a security interest in the property, even if legal title is in the creditor pursuant to a security agreement.

A.R.S. § 13-1802(A)(1) and (2):

Theft; classification; definitions

A. A person commits theft if, without lawful authority, the person knowingly:

1. Controls property of another with the intent to deprive the other person of such property...
2. Converts for an unauthorized term or use services or property of another entrusted to the defendant or placed in the defendant's possession for a limited, authorized term or use;

A.R.S. §46-456. Duty to a vulnerable adult; financial exploitation; civil penalties; exceptions; definitions

A. A person who is in a position of trust and confidence to a vulnerable adult shall use the vulnerable adult's assets solely for the benefit of the vulnerable adult and not for the benefit of the person who is in the position of trust and confidence to the vulnerable adult or the person's relatives unless any of the following applies:

1. The superior court gives prior approval of the transaction on a finding that the transaction is for the benefit of the vulnerable adult.
2. The transaction is specifically authorized in a valid durable power of attorney that is executed by the vulnerable adult as the principal or in a valid trust instrument that is executed by the vulnerable adult as a settlor.
3. The transaction is required in order to obtain or maintain eligibility for services under title 36, chapter 29.
4. The person in the position of trust and confidence to the vulnerable adult is the vulnerable adult's spouse and the transaction furthers the interest of the marital community, including applying for benefits pursuant to title 36, chapter 29 or benefits for supplemental security income, medicare or veterans' administration programs.

B. A person who violates subsection A of this section or section 13-1802, subsection B shall be subject to actual damages and reasonable costs and attorney fees in a civil action brought by or on behalf of a vulnerable adult and the court may award additional damages in an amount up to two times the amount of the actual damages.

This allegation involves Cline's relationships with both Thomsen as Trustee (created by special needs trust) and Conservator for Morris (created by court-appointment). It encompasses Cline's unwillingness to check on Thomsen, her failures to communicate with him and keep him informed, as well as her error of placing \$16,500.00 belonging to Morris in Thomsen's account. It also addresses Cline's transfer of both Thomsen's and Morris's funds to herself and entities Cline controlled.

Thomsen reported that Cline would not check on him, she would not let him see bank statements, she would not share information about his trust account, she would not contact him promptly and she would not provide him her invoices. Thomsen reported that he found a draft accounting for 2016 in a barrel on his property. He states he unable to obtain any

answers or explanation from Cline about funds in his account. Thomsen disputes Cline's statement to this Division that she corrected the \$16,500.00 transfer, that she provided him interest and that she promptly informed him of all the relevant events.

Det. Swaim confirmed that Cline inappropriately transferred \$16,500.00 to Thomsen's bank account. He also reported that between January 2016 and March 2017, Cline transferred \$69,782.00 from the Thomsen Trust to:

- \$28,609.00 to Essential Fiduciary Services LLC
- \$16,160.00 to a Chase "Liquid" card used by Thomsen
- \$1,875.00 to Essential Designs LLC
- \$6,500.00 to a Morgan or Krista Cline joint account
- \$7,438.00 to a Chase credit card in the name of Cline
- \$3,700.00 to a Chase credit card in an unknown name

Det. Swaim identified Cline as having an interest in Essential Fiduciary Services LLC and Essential Designs LLC. He also identified the inappropriate transfers of funds in the amount of approximately \$30,620.00 after subtracting the Chase Liquid card transfers and Cline's reasonable fees.

Regarding Morris, Cline was a court-appointed conservator of Morris. Det. Swaim determined that the \$16,500.00 Cline improperly placed into Thomsen's account came from Morris. Det. Swaim also reviewed Morris's bank account records and found that Cline inappropriately transferred as much as \$76,000.00 from Morris's account; approximately \$34,000.00 after Morris's death. Det. Swaim's investigation uncovered that while Cline was the fiduciary for Morris from September 2016 through May of 2017, Cline transferred the following funds:

- \$45,388.00 to Essential Fiduciary Services pre-death and \$11,854 post death for a total \$57,242.00
- \$6,939.00 to Chase credit card pre-death belonging to Cline and \$5,735.00 post death for a total of \$12,674.00
- \$16,500.00 to Thomsen Trust

Det. Swaim arrested Cline and she was charged with three counts of fraud and one count of theft. When asked about Det. Swaim's police report, Cline acknowledged that the monetary figures Det. Swaim reported regarding transfers appeared accurate and she did not dispute the amounts listed above. Nor did she provide any explanation. Similarly, APS independently obtained relevant bank records and its financial analysis found Cline transferred \$66,060.39 from Thomsen to "other non-client accounts."

Allegation 2 is substantiated.

Allegation 3: Krista Cline failed to cooperate with this Division's investigation.

ACJA § 7-201(F)(1) and § 7-202(F)(1) require all fiduciaries to comply with the Code of Conduct contained in § 7-202(J).

§7-201(H)(6)(a) and (c):

6. Grounds for Discipline. A certificate holder is subject to disciplinary action if the board finds the certificate holder has engaged in one or more of the following:

a. Failed to perform any duty to discharge any obligation in the course of the certificate holder's responsibilities as required by law, court rules, this section or the applicable section of the ACJA;

c. Failed to cooperate with or supply information to the director, deputy director, division staff or board by the specific time stated in any request;

§7-202(J)(1)(a):

1. Duty to the Court.

a. The fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law, federal law, administrative rules, court orders, court rules, administrative orders, and the Arizona Code of Judicial Administration.

§7-202(J)(7):

6. A licensed fiduciary who is acting as a trustee or agent under a power of attorney shall abide by this code of conduct, regardless of whether that person is acting pursuant to court appointment.

On September 20, 2017, staff hand-delivered a written request for documents to Cline. The letter gave Cline two weeks to produce the records, consistent with her oral representations regarding the amount of time she would need to comply. Although Cline emailed staff a list of clients, she failed to provide any of the other documents sought.

On October 3, 2017, staff sent a follow up letter to Cline noting that it had not received responsive documents from her and again requesting she cooperate. She did not and sought a stay of this investigation based on the advice of counsel.

Allegation 3 is substantiated.

Allegation 4. Krista Cline made at least one false statement to this Division.

ACJA § 7-201(F)(1) and § 7-202(F)(1) require all fiduciaries to comply with the Code of Conduct contained in § 7-202(J).

§7-201(H)(6)(j):

6. *Grounds for Discipline.* A certificate holder is subject to disciplinary action if the board finds the certificate holder has engaged in one or more of the following:

j. *The existence of any cause for which original certification or renewal of certification could have been denied pursuant to subsections (E)(2)(c) or (G)(4)(c) and the applicable section of the ACJA;*

§7-201(E)(2)(c)(2)(b)(ii) and (xiv):

(b) *The applicant or an officer, director, partner, member, trustee, or manager of the applicant:*

(ii) *Has committed any act constituting material misrepresentation, omission, fraud, dishonesty or corruption in business or financial matters;*

(xiv) *Has made a false or misleading oral or written statement to division staff or the board;*

c. *Failed to cooperate with or supply information to the director, deputy director, division staff or board by the specific time stated in any request;*

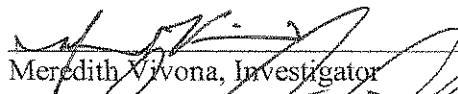
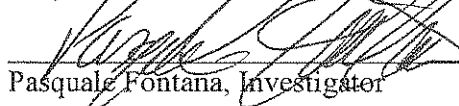
On July 14, 2017, Cline sent this Division her written response to APS's complaint. Regarding the \$16,500.00 transfer into Thomsen's account, Cline stated: "As is required, I was the one who identified the mistake, corrected it appropriately and immediately, and further identified the mistake and correction in the accounting to Mr. Thomsen as beneficiary. Further I transferred from my business account the amount in interest to the Trust that the Trust would have earned on that amount. Full documentation of this corrective action was provided directly to Mr. Thomsen..."

Based on Thomsen's, Schraner's and Det. Swaim's statements, Cline's statement above is false. In fact, Schraner reports that after May 23, 2017, she moved the \$16,500.00 into a separate account where it is currently held.

On September 19, 2017, staff telephonically interviewed Cline. She denied threatening Mitchell with trespassing. Staff is in possession of a copy of Cline's May 4, 2017 letter to Mitchell regarding "Your trespass at my home." Cline stated that she was "livid and appalled that you would take such an action as to go to my home uninvited...As far as I am concerned you criminally trespassed against an officer of the court."

Allegation 4 is substantiated.

SUBMITTED BY:

 12-8-2017
Meredith Vivona, Investigator Date
 12/8/17
Pasquale Fontana, Investigator Date

Certification and Licensing Division

REVIEWED BY:

 12/13/17
Certification and Licensing Division Date

DECISION OF THE PROBABLE CAUSE EVALUATOR:


Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 17-0015, the Probable Cause Evaluator:

☐ requests division staff to investigate further.

☐ determines probable cause does not exist the certificate holder has committed the alleged acts of misconduct as to Allegation(s):

☒ determines probable cause exists the certificate holder committed the alleged acts of misconduct as to Allegation(s):

#1, 2, 3, & 4.

 12/20/17
Mike Baumstark Date
Probable Cause Evaluator

CERTIFICATE HOLDER/LICENSEE INFORMATION	Certificate Holder:	Krista Cline
	Certification Number:	20681
	Business Name:	Essential fiduciary Services
	Certificate Number:	N/A

Director
Certification and Licensing Division

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decision, based on the facts, evidence, and analysis as presented and enters the following order:


- ☐ requests division staff to investigate further.
- ☐ refers the complaint to another entity with jurisdiction.

Referral to: _____

- ☐ dismisses the complaint, and:
 - ☐ requests division staff prepare a notice of dismissal pursuant to ACJA § 7-201(H)(5)(c)(1).
 - ☐ requests division staff prepare a notice of dismissal and an Advisory Letter pursuant to ACJA § 7-201(H)(5)(c)(2).
- ☐ determines grounds for discipline exist demonstrating the certificate holder committed the alleged act(s) of misconduct and:
 - ☐ enter a finding the alleged act(s) of misconduct or violation(s) be resolved through informal discipline, pursuant to ACJA § 7-201(H)(7) and issue a Letter of Concern.
 - ☐ enter a finding the alleged act(s) of misconduct or violation(s) be resolved through formal disciplinary proceeding, pursuant to ACJA § 7-201(H)(9).
- ☐ requests the certificate holder appear before the Board to participate in a Formal Interview, pursuant to ACJA § 7-201(H)(8).
- ☐ orders the filing of Notice of Formal Charges, pursuant to ACJA § 7-201(H)(10).
- ☐ enters a finding the public health, safety or welfare is at risk, requires emergency action, and orders the immediate emergency suspension of the certificate and sets an expedited hearing for:

Date, Time, and Location: _____

- ☒ adopts the recommendations of the Division Director.
- ☐ does not adopt the recommendations of the Division Director and orders:


Deborah Primock, Chair
Fiduciary Board

Date 